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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/757,803 | 01/10/2001 | Tim Schnell | 911.009US1 | 7353 |

21186 7590 10/22/2002

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P.O. BOX 2938
MINNEAPOLIS, MN 55402

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| EXAMINER |
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BLACKMAN, ROCHELLE ANN J

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2851

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/757,803 | SCHNELL, TIM |
| | Examiner Rochelle Blackman | Art Unit 2851 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 June 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,2,4-8 and 23-25 is/are allowed.
- 6) Claim(s) 3,9,12,14-16,18-22,26 and 27 is/are rejected.
- 7) Claim(s) 10,11,13,17,28 and 29 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 May 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) Z . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "can be varied" renders the claim indefinite because it cannot be determined whether or not the exposures are varied between 1 and 9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9, 12, 14-16, 18-22, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sommer et al., U.S. Patent No. 5,819,124.

Sommer discloses a "motion detector camera"(see FIGS. 1-3); a "housing"(see 12 and 22 of FIGS. 1 and 2 and see "housing" surrounding the elements in FIG. 3); a "camera mechanism located within a first section of the housing"(see 10 of FIGS. 1-3), "including a film advance mechanism..."(see col. 3, lines 65-67) and a "lens which is exposed on a front surface of the housing"(see 16 of FIGS. 1 and 2 and see "lens" of "camera mechanism" 10 in FIG. 3); a "motion detector..."(see 28 of FIGS. 1 and 2 and 52 and 54 of FIG. 3); a "flash..."(see 50 of FIG. 4); a "controller..."(see 32 of FIGS. 1 and 3 and 56 of FIG. 3); a "power supply"(see col. 3, lines 28-32 and see 58 of FIG. 3); a housing that includes a "ridge located above the lens"(see edge or "ridge" of opening of the housing above the lens of "camera mechanism" 10, where the lens projects through in FIG. 3); a housing that includes a "clear plastic shell"(see col. 3, lines 54-58); and a "remote control..."(see col. 4, lines 63-64). The method of "taking a picture" along with features and functions of the claimed elements are similarly met by the features and function of the above mentioned elements.

Allowable Subject Matter

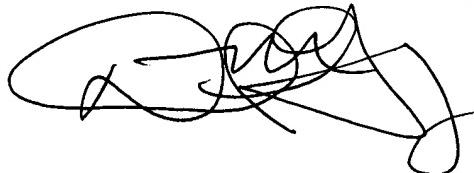
1. Claims 1, 2, 4-8, and 23-25 are allowed.
2. Claims 10, 11, 13, 17, 28, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rochelle Blackman whose telephone number is (703) 308-2879. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell Adams can be reached on (703) 308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



DAVID M. GRAY
PRIMARY EXAMINER

RB
October 20, 2002